

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**MINUTE ENTRY FOR CRIMINAL PROCEEDING**
☐ SEALED PROCEEDING

BEFORE: Joseph F. Bianco, USCJ (Sitting by designation.)
DATE: 10 / 5 / 2020
TIME: 11:45 AM 1 (Hrs.) 30 (Mins.)
DOCKET: 13 - CR - 0607 (JFB) ()
TITLE: USA v. Kenner, et al

APPEARANCES:

DEFENDANT: Phillip A. Kenner Def. # 1
☒ Present ☐ Not Present ☒ In Custody ☐ On Bond

COUNSEL: Matthew W. Brissenden
☐ Retained ☐ Federal Defender ☒ CJA ☒ Advisory Counsel

GOVERNMENT: S. Komatireddy, M. Haggans, M. O'Connor, D. Beckman

COURT REPORTER: Dominick Tursi, Owen Wicker

PROBATION/PRETRIAL: _____

FTR TIME: _____

INTERPRETER: _____
☐ Sworn ☐ Spanish ☐ Other: _____

COURTROOM DEPUTY: ELR for MS

The following proceeding(s) was/were held:

- ☒ Sentencing
☐ Re-Sentencing
☐ Fatco Hearing

☐ Sentencing adjourned to ___ / ___ / ___ at ___ : ___ before _____, courtroom _____.

- ☒ Defendant ☒ sentenced ☐ re-sentenced on count(s) 1ss through 4ss, 7ss, and 9ss of the:
☐ Juvenile Information
☐ Misdemeanor Information
☐ Felony Information
☐ Felony Indictment
☐ Superseding Juvenile Information (S-___)
☐ Superseding Information (S-___)
☒ Superseding Indictment (S- 2)

- ☒ Statements heard from:
☐ Defense counsel
☒ Defendant
☒ Government
☒ Victim(s)

Imprisonment:

- ☒ The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
☒ 204 ☒ months; ☐ years.
☒ Total imprisonment term consisting of:

Two hundred and four (204) months on each count to run concurrent to each other.

- ☐ life.
☐ time served.
☐ Time Served Order executed.

Supervised Release:

☒ Upon release from imprisonment, the defendant shall be on supervised release for a total term of:

☒ 3 ☐ months; ☒ years.

☒ Total supervised release term consisting of:

Three (3) years on each count to run concurrent to each other.

☐ life.

☒ The defendant shall comply with all standard conditions of supervision.

☒ See page 4 for special conditions of supervision.

☐ The Court does not impose a term of supervised release.

Probation:

☐ The defendant is hereby sentenced to probation for a total term of:

☐ ☐ months; ☐ years.

☐ Total probation term consisting of:

☐ time served.

☐ The defendant shall comply with all standard conditions of supervision.

☐ See page 4 for special conditions of supervision.

Restitution:

☐ The defendant must pay restitution in the total amount of \$_____.

☐ Schedule of payments:

☐ Restitution has not been ordered or is not applicable.

Fines:

☐ The defendant must pay a fine in the total amount of \$_____.

☐ Schedule of payments:

☒ The fine is waived based on the defendant's inability to pay, or other factors outlined on the record.

Special Assessment:

☒ The defendant must pay a Special Assessment fine in the total amount of \$ 600.00, due immediately.

☐ Other conditions:

☒ Preliminary Order of Forfeiture dated 3 / 16 / 2020 adopted as the Final Order of Forfeiture.

☐ Final Order of Forfeiture executed.

☒ Defendant ☒ advised of ☐ waived his/her right to appeal.

☒ Defendant remanded to the custody of the US Marshal Service.

☐ Medical Evaluation Order executed.

☐ Defendant granted leave to surrender for the service of his/her sentence at the institution designated by the Federal Bureau of Prisons before 2:00 PM on ___/___/_____. The defendant will remain on bond with set conditions and under the supervision of Pretrial Services until the set surrender date.

☐ US Marshals Voluntary Surrender form executed.

☐ The Court makes the following recommendations to the Federal Bureau of Prisons:

☐ Defendant directed to report to the US Probation Department. The defendant remains on bond with set conditions and will now be under the supervision of the US Probation Department.

☒ All open counts are dismissed on the motion of the United States.

☐ Parties move to seal the record of this proceeding and the application was granted. Transcripts of this proceeding can be made available to the Court, defense counsel and the Government only.

☒ Other:

- Sanford Talkin present on behalf of his client, and co-defendant, Tommy C. Constantine. Mr. Constantine, and other interested parties, appear by telephone.

- Parties are to appear via video on 11/18/2020 at 10:30 AM to have a hearing regarding the restitution order to be imposed as part of the defendant's sentence.

☒ Special Conditions of Supervision:

- The standard mandatory condition of supervision, number 12, is modified as follows: If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may seek to have the court determine that such a risk exists and that you should be required to notify the person about the risk and you must comply with that instruction. Upon such a determination by the court and with the approval of the court, the probation officer may contact the person and confirm that you have notified the person about the risk.
- The defendant shall maintain full-time verifiable employment.
- The defendant shall comply with the restitution order; which shall be imposed at a later time.
- The defendant shall comply with the forfeiture order.
- Upon request, the defendant shall provide the U.S. Probation Office with full disclosure of his financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, the defendant is prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge and approval of the U.S. Probation Office. The defendant shall cooperate with the Probation Officer in the investigation of his financial dealings and shall provide truthful monthly statements of your income and expenses. The defendant shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records.
- The defendant shall cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, the defendant shall provide the U.S. Probation Office with full disclosure of his self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self Employment Records), or as otherwise requested by the U.S. Probation Office.
- The defendant is prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. The defendant shall not encumber or liquidate interest in any assets unless it is in direct service of the, forfeiture, fine and/or restitution obligation or otherwise has the express approval of the Court.

☐ Special Conditions of Supervision (continued):